Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
	)	
Telecommunications Relay Services and	)	CG Docket No. 03-123
Speech-to-Speech Services for	)	
Individuals with Hearing and Speech Disabilities	)	
	)	
	)	
Access to Emergency Services		

NOTICE OF PROPOSED RULEMAKING

Adopted: November 18, 2005 **Released:** November 30, 2005

Comment Date: (21 days after publication in the Federal Register)
Reply Comment Date: (35 days after publication in the Federal Register)

By the Commission:

I. INTRODUCTION

1. In this *Notice of Proposed Rulemaking (Notice)* we address the issue of access to emergency services for Internet-based forms of Telecommunications Relay Service (TRS), namely Video Relay Service (VRS) and Internet Protocol (IP) Relay.[1] As the Commission has often recognized, 911 service is critical to our nation's ability to respond to a host of crises.[2] Four decades after 911 service was established, Americans largely take for granted that in the event of an emergency they can use the telephone to quickly reach the proper authorities, and that the first responders will be able to accurately locate them.[3] Because wireline telephones are generally linked to a particular address, emergency calls

[1] TRS, created by Title IV of the Americans with Disabilities Act of 1990 (ADA), enables an individual with a hearing or speech disability to communicate by telephone or other device through the telephone system with a person without such a disability. *See* 47 U.S.C. § 225(a)(3) (defining TRS); 47 C.F.R. § 64.601(14). VRS and IP Relay are discussed below.

[2] *See, e.g., Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, RM-8143, First Report and Order, 11 FCC Rcd 18676, 18679, para. 5 (July 26, 1996) (*E911 First Report and Order*) ("E911 saves lives and property by helping emergency services personnel do their jobs more quickly and efficiently."); *IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, WC Docket Nos. 04-36, 05-196, First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10245, at 10247-10248, para. 4 (June 3, 2005) (*VoIP E911 Order*).

[3] *See VoIP E911 Order*, 20 FCC Rcd at 10248, para. 6.

placed over the traditional Public Switched Telephone Network (PSTN), including direct TTY calls,[4] can usually be routed to the proper public safety answering point (PSAP) where location information is automatically displayed.[5] Such direct, automatic access to emergency services through VRS and IP Relay services, however, does not currently exist and, accordingly, solutions must be developed.

2. Emergency calls made via TRS, rather than by directly calling 911, present unique challenges because they are connected through a communications assistant (CA), rather than routed directly and automatically to the appropriate PSAP over a network, and the CA must make an outbound voice telephone call to the appropriate PSAP. The CA, therefore, must have a means of determining both (1) where the relay caller is physically located, and (2) the appropriate PSAP that corresponds to that geographic location so the CA can make the outbound telephone call to the PSAP. With traditional TRS (using PSTN-based TTY), the location and callback information is transmitted with the call and the CA may be able to provide it to the PSAP. Because Internet-based calls do not originate on the PSTN, CAs must use other methods to ascertain the callers' location. We accordingly seek comment on ways in which we may ensure that the CA will be able to call the appropriate PSAP when a VRS or IP Relay user calls the relay provider and asks the CA to call emergency services. We also seek comment on whether, and if so, how, requirements ensuring that persons using VRS and IP Relay will have access to emergency services might affect the TRS funding mechanism.[6]

II. BACKGROUND

A. Telecommunications Relay Service

3. Title IV of the Americans with Disabilities Act of 1990 (ADA), adding Section 225 to the Communications Act of 1934, requires the Commission to ensure that TRS is available, to the extent possible and in the most efficient manner, to persons with hearing or speech disabilities in the United States.[7] The statute requires that TRS offer persons with hearing and speech disabilities telephone transmission services that are "functionally equivalent" to voice telephone services.[8] Congress recognized that persons with hearing and speech disabilities have long experienced barriers in their ability to access, utilize, and benefit from telecommunications services.[9] The legislative history of Title IV reflects that "the inability of over 26 million Americans to access fully the Nation's telephone system

[4] When a user dials 911 with a TTY to contact a PSAP it is not a TRS call and therefore a relay provider is not involved. Such a call is automatically routed to the appropriate PSAP in the same manner as any other 911 PSTN call, and contains the same location and callback information as a voice call to 911. Under Title II of the ADA, PSAPs must be capable of directly receiving TTY calls. *See* 28 C.F.R. § 35.162 (United States Department of Justice regulations implementing Title II of the ADA and requiring telephone emergency services, including 911 services, to provide "direct access to individuals who use [TTY's]"). As further noted below, this is the most reliable way for persons with hearing or speech disabilities to reach emergency services.

[5] *See VoIP E911 Order*, 20 FCC Rcd at 10250-10254, paras. 12-18.

[6] *See generally Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CC Docket Nos. 90-571 & 98-67, CG Docket No. 03-123, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 12475, at 12482-12483, paras. 7-8 (June 30, 2004) (*2004 TRS Report & Order*) (overview of TRS funding mechanism).

[7] 47 U.S.C. § 225(b)(1).

[8] 47 U.S.C. § 225(a)(3).

[9] *See generally 2004 TRS Report & Order*, 19 FCC Rcd at 12479-12480, para. 3 (discussing legislative history of Title IV of the ADA).

poses a serious threat to the full attainment of [the goal of universal telephone service]."[10] Congress therefore found TRS necessary to "bridge the gap between the communications-impaired telephone user and the community at large," and emphasized that to "participate actively in society, one must have the ability to call friends, family, business[es] and employers."[11] Since the implementation of TRS in 1993, the Commission has addressed issues relating to its provision, regulation, and compensation.[12]

4. Initially, TRS was provided via a TTY (text telephone) and the PSTN. In such a "traditional" TRS call, a person with a hearing or speech disability initiates the call by dialing (*i.e.*, typing) a telephone number for a TRS facility using a TTY, and then types the number of the party he or she desires to call. The CA, in turn, places an outbound voice call to the called party. The CA serves as the "link" in the conversation, converting all typed TTY messages from the caller into voice messages for the called party, and all voice messages from the called party into typed messages for the TTY user.[13]

5. In March 2000, the Commission recognized VRS as a form of TRS.[14] VRS requires the use of a broadband Internet connection between the VRS user and the CA, which allows them to communicate in sign language via a video link. The CA, in turn, places an outbound telephone call to a hearing person. During the call, the CA communicates in American Sign Language (ASL) with the deaf person and by voice with the hearing person. As a result, the conversation between the two end users, deaf and hearing, flows in near real time and in a faster manner than with a TTY or text-based TRS call. VRS therefore provides a degree of "functional equivalency" that is not attainable with text-based TRS by allowing those persons whose primary language is ASL to communicate in sign language, just as a hearing person communicates in, *e.g.*, spoken English. The Commission also determined that all VRS calls would be eligible for compensation from the Interstate TRS Fund.[15] Although the Commission has not made VRS a mandatory service,[16] it has encouraged its development.[17] In the past few years use of VRS has grown tremendously.[18]

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[10] *See* H.R. Rep. No. 485, Pt. 2, 101st Cong., 2d Sess. at 129 (1990) (House Report).

[11] *Id.*

[12] *See generally 2004 TRS Report & Order,* 19 FCC Rcd at 12479-12486, paras. 2-13 (overview of past TRS orders).

[13] *See generally id.*, 19 FCC Rcd at 12480, para. 3 n.18.

[14] *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CC Docket No. 98-67, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 5140, 5152-5154, paras. 21-27 (March 6, 2000) (*Improved TRS Order & FNPRM*) (recognizing VRS as a form of TRS); 47 C.F.R. § 64.601(17) (defining VRS).

[15] *Improved TRS Order & FNPRM,* 15 FCC Rcd at 5152-5154, paras. 23-27. Generally, the Interstate TRS Fund compensates providers for providing interstate TRS services, and the states compensate providers for providing intrastate TRS services. *Id.*, 15 FCC Rcd at 5154, para. 26. Presently, all VRS calls, and all IP Relay calls, are compensated from the Interstate TRS Fund. The question of whether the Commission should adopt a mechanism for the jurisdictional separation of costs for these services is pending before the Commission. *2004 TRS Report & Order,* 19 FCC Rcd at 12561-12564, paras. 221-230 (IP Relay), at 12567, paras. 241-242 (VRS).

[16] That issue is pending before the Commission. *2004 TRS Report & Order,* 19 FCC Rcd at 12567-12568, paras. 243-245.

[17] *Improved TRS Order & FNPRM,* 15 FCC Rcd at 5152, para. 22. Most recently, on July 19, 2005, the Commission released two orders further addressing various aspects of the provision of VRS. *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CG Docket No. 03-123, CG Docket No. 98-67, Report and Order, 20 FCC Rcd 13165 (July 19, 2005) (continued....)

6. In April 2002, the Commission recognized a second Internet-based form of TRS – IP Relay.[19] IP Relay calls are text-based calls, but the user connects to the TRS facility via a computer (or other similar device) and the Internet, rather than via a TTY and the PSTN. A user establishes a local connection to an Internet service provider using a computer, web phone, personal digital assistant, or other IP-enabled device, selects the Internet address of an IP Relay provider, and is connected to a CA who handles the call in the same way that TTY-based calls are handled.[20] IP Relay, like VRS, has become very popular because the user can make a relay call with any computer (or similar device) connected to the Internet, rather than only with a dedicated TTY.

B. 911/E911 Service

7. Basic 911 service is a forwarding arrangement in which 911 calls are transmitted, based on the caller's location, to a geographically appropriate PSAP.[21] The service does not provide the PSAP, however, with the caller's location information. Enhanced 911 ("E911") systems do provide the call taker with the caller's call back number, referred to as Automatic Numbering Information (ANI), and, in many cases, the caller's location information, a capability referred to as Automatic Location Identification (ALI).[22] Virtually all wireline local exchange carriers (LECs) and Commercial Mobile Radio Services (CMRS) carriers now provide at least basic 911 service, and in many localities E911 service.[23]

8. New communications technologies have posed technical and operational challenges to the 911 system.[24] For example, the mobility of wireless telephones renders the use of permanent street addresses as a location indicator useless. The person using the telephone could be anywhere in the country, notwithstanding that the wireless telephone number is associated with a particular physical address. Under the Commission's rules, wireless telephone service providers must employ a means of providing real-time location updates to the PSAP.[25] Thus, wireless carriers have developed various

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(*2005 VRS Order*) (addressing VRS speed of answer, VRS hours of service, and VRS Mail); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CC Docket No. 98-67, CG Docket No. 03-123, Order on Reconsideration, 20 FCC Rcd 13140 (July 19, 2005) (addressing ASL-to-Spanish VRS).

[18] The popularity of VRS is reflected by how rapidly it has grown. In January 2002, the first month VRS was generally offered, there were 7,215 minutes of use; in January 2003, there were 128,114 minutes of use; in January 2004, there were 477,538 minutes of use; and in January 2005, there were 1,634,316 minutes of use. There were over 2.2 million minutes of use of VRS in July 2005.

[19] *See Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CC Docket No. 98-67, Declaratory Ruling and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 7779 (April 22, 2002) (*IP Relay Declaratory Ruling & FNPRM*).

[20] *See generally Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services For Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Order on Reconsideration, 18 FCC Rcd 4761, at 4762, para. 3 n.11 (March 14, 2003).

[21] *See VoIP E911 Order*, 20 FCC Rcd at 10250, para. 12. These calls are therefore routed based on the calling party's number, not the called number. *See id.,* 20 FCC Rcd at 10251, para. 13 n.32.

[22] *Id.*, 20 FCC Rcd at 10251, para. 13.

[23] *Id.*, 20 FCC Rcd at 10249, 10251, paras. 8, 13.

[24] *Id.*, 20 FCC Rcd at 10249, para. 8.

[25] *See id.,* 20 FCC Rcd at 10252, para. 17.

techniques to provide ANI and ALI to the PSAPs that involve enhancements to the existing wireless E911 network.[26]

C. TRS and Emergency Call Handling

9. In 1991, the Commission, pursuant to Congress's direction in Section 225, adopted the TRS regulations.[27] These regulations include the mandatory minimum standards that govern the provision of TRS.[28] The purpose of these standards is to ensure that TRS users have the ability to access the telephone system in a manner that approximates, as closely as possible, the experience of a voice telephone user consistent with the functional equivalency mandate. One of the mandatory minimum standards requires TRS CAs to handle emergency calls.[29] The Commission concluded CAs must handle emergency calls like any other TRS calls.[30] At the same time, the Commission "strongly encourage[d] ... TRS users to access emergency 911 services directly."[31] In other words, the Commission recognized that although TRS users should call 911 on their TTY in the event of an emergency so that they would be directly connected to a PSAP, TRS providers were required to handle emergency calls if a person chose to make an emergency call through the TRS center.[32]

10. In 1998, the Commission proposed amendments to the TRS mandatory minimum standards and sought comment on various issues to enhance the quality of TRS and broaden the potential universe of TRS users.[33] One of the issues the Commission addressed was access to emergency services.[34] The Commission noted that despite regulations requiring state and local governments to make emergency services directly accessible to TTY users (for direct TTY to TTY calls), many individuals with hearing and speech disabilities use TRS to contact emergency services.[35] The Commission also expressed concern that there was "inconsistency and confusion among the states and TRS providers as to how such calls should be handled."[36] Accordingly, the Commission sought comment on how TRS providers were handling emergency calls and, more specifically, whether TRS providers should be

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[26] *See generally id.*, 20 FCC Rcd at 10252-10254, paras. 16-18 (addressing wireless E911 technical and operational issues).

[27] *See Telecommunication Services for Individuals with Hearing and Speech Disabilities, and the Americans With Disabilities Act of 1990,* CC Docket No. 90-571, Report and Order and Request for Comments, 6 FCC Rcd 4657 (July 26, 1991) (*TRS I*).

[28] *See* 47 C.F.R. § 64.604.

[29] *See* 47 C.F.R. § 64.604(a)(4); *see also TRS I*, 6 FCC Rcd at 4659, para. 10.

[30] *See TRS I*, 6 FCC Rcd at 4659, para. 10.

[31] *Id.*

[32] The final rule provided: "CAs shall handle emergency calls in the same manner as they handle any other TRS calls." 47 C.F.R. § 64.604(a)(3)(1993).

[33] *Telecommunications Services for Hearing-Impaired and Speech Impaired Individuals,* CC Docket No. 98-67, Notice of Proposed Rulemaking, 13 FCC Rcd 14187 (May 20, 1998) (*1998 TRS NPRM*). This NPRM followed a Notice of Inquiry. *See Telecommunications Relay Services, the Americans with Disabilities Act of 1990, and the Telecommunications Act of 1996,* CC Docket No. 90-571, Notice of Inquiry, 12 FCC Rcd 1152 (Jan. 14, 1997).

[34] *1998 TRS NPRM,* 13 FCC Rcd at 14203, paras. 40-41.

[35] *Id.*, 13 FCC Rcd at 14203, para. 41.

[36] *Id.*, 13 FCC Rcd at 14203, para. 40.

required to pass a caller's ANI to an emergency services operator.[37]

11. In the March 2000 *Improved TRS Order*, the Commission recognized that because some persons continue to make emergency calls via TRS (rather than directly TTY to TTY), it had an "obligation to make relay calls to 911 functionally equivalent to a direct call to 911."[38] The Commission therefore modified the TRS emergency call handling rule in two respects.[39] First, the Commission required providers to be able to match the incoming caller's telephone number with the appropriate PSAP electronically, so that the CA can quickly make the outbound call to the PSAP.[40] Second, the Commission required CAs to pass along the caller's telephone number to the PSAP orally when the caller disconnects before being connected to emergency services.[41]

12. In June 2003, the Commission again addressed the TRS access to emergency information rule.[42] The Commission clarified that TRS providers must route emergency TRS calls to the "appropriate" PSAP and required TRS providers to adjust their databases accordingly.[43] In a subsequent order, the Commission further clarified that the "appropriate" PSAP is "either a PSAP that the caller would have reached if he had dialed 911 directly, or a PSAP that is capable of enabling the dispatch of emergency services to the caller in an expeditious manner."[44]

D. Waiver of Emergency Call Handling for VRS and IP Relay

13. As noted above, in March 2000 the Commission recognized VRS as a form of TRS. In December 2001, the Commission granted a two-year waiver of emergency call handling requirements for VRS providers.[45] The Commission recognized that VRS providers needed additional time to establish

[37] *Id.*, 13 FCC Rcd at 14203, para. 41.

[38] *Improved TRS Order & FNPRM,* 15 FCC Rcd at 5182-5183, paras. 99-100.

[39] *Id.*, 15 FCC Rcd at 5182-5184, paras. 99-102.

[40] *Id.*

[41] *Id.*, 15 FCC Rcd at 5183-5184, para. 101. As a result of this new rule, TRS service providers found it necessary to develop new databases of all PSAPs in the country. *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Order, 16 FCC Rcd 4662, at 4666, para. 12 (Feb. 23, 2001) (*TRS 911 Waiver Order).*

[42] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC* Docket No. 98-67, CG Docket No. 03-123, Second Report and Order, Order on Reconsideration, and Notice of Proposed Rulemaking, 18 FCC Rcd 12379, at 12407, para. 42 (June 17, 2003) (*TRS Second Improved Report and Order).*

[43] *Id.*, 18 FCC Rcd at 12406-12408, paras. 40-42. Because of jurisdictional boundaries, the "appropriate" PSAP is not always the geographically closest PSAP to the calling party. The Commission also addressed TRS handling of emergency wireless calls, noting the difficulty in tracing the location of the wireless caller, and sought comment as to how to make wireless emergency TRS calls functionally equivalent to wireless voice calls. *Id.*, 18 FCC Rcd at 12408-12409, paras. 43-46, and 12433-12434, paras 108-109.

[44] *2004 TRS Report & Order*, 19 FCC Rcd at 12559, para. 216. The Commission also revisited the issue of routing wireless emergency TRS calls. The Commission determined that implementation of rules in this context would be premature and that it would reconsider the issue at a later time once other E911 requirements had been implemented. *Id.*, 19 FCC Rcd at 12501-12502, paras. 52-54.

[45] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CC Docket No. 98-67, Order, 17 FCC Rcd 157, at 161-162, paras. 11-14 (Dec. 31, 2001) (*VRS Waiver Order*).

PSAP databases, and to adjust new and developing VRS technologies to effectively handle emergency calls made via VRS.[46] At the same time, VRS providers were required to clearly explain in their promotional materials and on their websites the shortcomings of using VRS to place an emergency call.[47] Subsequently, the Commission has twice extended this waiver, which presently expires on January 1, 2006.[48] Most recently, the Commission emphasized that because VRS users gain access to the VRS via the Internet, rather than a telephone, VRS providers do not receive the automatic number identification (ANI) of the calling party. As a result, VRS providers cannot identify the caller's location to relay that information to the PSAP.[49]

14. The initial order recognizing IP Relay as a form of TRS also waived the emergency call handling requirement.[50] The Commission noted that IP Relay providers do not receive the ANI of the calling party (because the call is via the Internet), and therefore do not have that information to pass on to a PSAP.[51] The Commission encouraged providers to work on developing a method to rapidly obtain location information from emergency callers and pass that information on to the appropriate emergency response center.[52] In March 2003, the Commission extended this waiver until January 1, 2008, again noting that the technology was not currently available to accurately relay emergency IP Relay calls to emergency service providers, and to automatically provide the emergency services providers with location information.[53]

E. The VoIP E911 Order

15. On June 3, 2005, the Commission released the *VoIP E911 Order*, requiring providers of interconnected VoIP service to provide E911 capabilities to their customers. Specifically, the Commission required interconnected VoIP providers, by November 28, 2005,[54] to "transmit all 911 calls, as well as a call back number and the caller's 'Registered Location' for each call, to the PSAP, designated statewide default answering point, or appropriate local emergency authority that serves the caller's Registered Location."[55] Recognizing that "it currently is not always technologically feasible for

[46] *Id.*, 17 FCC Rcd at 162, para. 13.

[47] *Id.*, 17 FCC Rcd at 162, para. 14.

[48] *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Order, 18 FCC Rcd 26309 (Dec. 19, 2003) (extending waiver until June 30, 2004); *2004 TRS Report & Order*, 19 FCC Rcd at 12520-12521, paras. 111-112 (extending waiver until January 1, 2006).

[49] *2004 TRS Report &Order*, 19 FCC Rcd at 12522, para. 117.

[50] *IP Relay Declaratory Ruling & FNPRM*, 17 FCC Rcd at 7789, para. 30.

[51] *Id.*

[52] *Id.*

[53] *See generally Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CC Docket No. 98-67, Order on Reconsideration, 18 FCC Rcd. 4761, at 4766, para. 12, and 4770-4771, para. 28 (March 14, 2003) (*IP Relay Reconsideration Order*).

[54] *See OMB Grants Emergency Approval of New VoIP E911 Rules Adopted in IP-Enabled Services First Report and Order; Effective Date is July 29, 2005,* WC Docket No. 04-36, Public Notice (July 12, 2005).

[55] *VoIP E911 Order,* 20 FCC Rcd at 10266, para. 37 (footnote omitted). The Commission also required that all E911 calls be routed through the existing "Wireline E911 Network," and not to 10-digit NPA-NXX numbers (so called "administrative numbers"), and that location or call back information be provided only to the extent that the PSAP, designated statewide default answering point, or appropriate local emergency authority designated to serve (continued....)

providers of interconnected VoIP services to automatically determine the location of their end users without end users' active cooperation,"[56] the Commission stated that interconnected VoIP providers must obtain from each customer, prior to the initiation of service, the physical location at which the service will first be utilized.[57] The Commission also required providers of interconnected VoIP services that can be utilized from more than one physical location to provide their end users with a method of updating information regarding the user's physical location.[58]

16. The Commission further found that allowing customers of interconnected VoIP providers to opt in or opt out of E911 service would be inconsistent with its obligation to "encourage and support efforts by States to deploy comprehensive end-to-end emergency communications infrastructure and programs."[59] In addition, in order to ensure that consumers of interconnected VoIP services are aware of their interconnected VoIP service's actual E911 capabilities, the Commission required that all providers of interconnected VoIP service specifically advise every subscriber, both new and existing, of the circumstances under which E911 service may *not* be available through the interconnected VoIP service, or may in some way be limited in comparison to traditional E911 service.[60] The Commission also required VoIP providers to obtain and keep a record of affirmative acknowledgement by every subscriber of having received and understood this advisory.[61] Finally, in order to ensure that the advisory is available to all potential users of an interconnected VoIP service, the Commission required interconnected VoIP service providers to distribute to their subscribers stickers or labels warning if E911

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a Registered Location is capable of receiving and utilizing the data (such as ALI or ANI) associated with those requirements. *See id.*, 20 FCC Rcd at 10269-10270, para. 42 & n.142. Even in those areas where the PSAP is not capable of receiving or processing location or call back information, the Commission concluded that interconnected VoIP providers must transmit all 911 calls to the appropriate PSAP via the Wireline E911 Network. *See id.*, 20 FCC Rcd at 10269- 10270, para. 42. The "Wireline E911 Network" is defined as a "dedicated wireline network that (1) is interconnected with but largely separate from the public switched telephone network, (2) includes a selective router, and (3) is utilized to route emergency calls and related information to PSAPS, designated statewide default answering points, appropriate local emergency authorities or other emergency answering points." 47 C.F.R. § 9.3.

[56] *Id.*, 20 FCC Rcd at 10271, para. 46.

[57] *Id.* Interconnected VoIP providers also were required to obtain from their existing customers, by November 28, 2005, the physical location at which the customer is using the service. *Id.*, 20 FCC Rcd at 10271, at para 46 n.147.

[58] *See id.*, 20 FCC Rcd at 10271, para. 46. The most recent location provided to an interconnected VoIP provider by a customer is the "Registered Location." *Id.* The Commission expected that customers of interconnected VoIP service providers will, in almost all cases, be able to provide their Registered Location in the form of a valid street address. *Id.*, 20 FCC Rcd at 10271, para. 46 n.148. The Commission also emphasized that although it was not requiring interconnected VoIP providers to automatically determine the location of their end users, nothing in the *VoIP E911 Order* prevents an interconnected VoIP provider from automatically obtaining an accurate location if it is capable of doing so. *Id.*, 20 FCC Rcd at 10271, at para. 46 n.146.

[59] *See id.*, 20 FCC Rcd at 10271-10272, para. 47 (quoting Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, 113 Stat. 1286, § 3(b) (1999)).

[60] *See id.*, 20 FCC Rcd at 10272, para. 48.

[61] *Id.*

service may be limited or unavailable, and to instruct subscribers to place them on or near the equipment used in conjunction with the interconnected VoIP service.[62]

III. DISCUSSION

17. This *Notice* seeks comment on the means by which providers of the two Internet-based forms of TRS – VRS and IP Relay – may determine the appropriate PSAP to contact when they receive an emergency call. As noted above, the Commission has waived the TRS emergency call handling mandatory minimum standard for VRS until January 1, 2006, and for IP Relay until January 1, 2008. These waivers reflect the recognition that, at present, it is unlikely to be technologically feasible for VRS or IP Relay providers to automatically determine the location of the calling party because the Internet address associated with the incoming "call" to the relay center does not contain identifying information. Indeed, with VRS or IP Relay, the caller and the VRS or IP Relay provider handling the call might be on opposite sides of the country.[63]

18. As the Commission has frequently recognized, currently the most reliable way for persons with hearing or speech disabilities to reach emergency services is through the use of TTY directly, rather than through a relay service. Because PSAPs are required to be able to receive direct TTY calls, and such calls contain ANI, the PSAP can determine the location of the caller, even if the caller is unable to communicate after establishing the connection with the PSAP. At the same time, we recognize that many TRS users now solely rely on VRS, which requires a broadband Internet connection, or IP Relay Service, and therefore may not have access to a telephone line or a TTY. Therefore, those users cannot make a direct call to a PSAP in the event of an emergency. For these reasons, we recognize that there will be circumstances when VRS and IP Relay users, of necessity, must make emergency calls through those services, and will rely on the VRS and IP Relay providers to relay their call (*i.e.*, make an outbound call) to a PSAP that can respond to the emergency. We therefore seek to adopt a means of ensuring that such calls promptly reach the appropriate emergency service provider.

19. *User Registration.* In view of the Registered Location requirement adopted in the *VoIP E911 Order*, we seek comment on whether we should require VRS and IP Relay providers to establish a registration process whereby VRS and IP Relay users provide, in advance, the primary location from which they will be making VRS or IP Relay calls, so that a CA can identify the appropriate PSAP to contact. As noted above, under the new rules for interconnected VoIP services, providers must obtain the primary location from which calls will be placed prior to initiating a consumer's service. VoIP providers must also provide a way for users to update that location information. We seek comment on whether VRS and IP Relay providers should be required to similarly register their customers – and obtain a Registered Location – so that they will be able to make the outbound call to the appropriate PSAP. We also seek comment on how such a registration requirement might work for first time users of a particular provider's VRS or IP Relay service. Further, we seek comment on whether there are other means by which VRS and IP Relay providers may obtain Registered Location information, for example, by linking

[62] *See id.*, 20 FCC Rcd at 10272-10273, para. 48. Some users of an interconnected VoIP service will not be subscribers. Guests at a subscriber's premises, for example, may not know that their host's telephone service is provided by an interconnected VoIP provider.

[63] Because VRS calls are likely to be answered by a CA located in another city or state, a system in which the CA simply dialed 911 could result in calls being routed to a PSAP in an area other than that in which the caller was located.

the serial number of the consumer's VRS or IP Relay terminal or equipment to their registered location.[64] Finally, we seek comment on whether the same rules should apply to both VRS providers and IP Relay providers, or whether the different natures of these services warrant different solutions.

20. We recognize that in the past some TRS users have expressed opposition to registration, noting that because voice telephone users did not have to similarly "register" to obtain telephone service, any such requirement would impose an additional burden on relay users alone. We believe the Commission's recent adoption of the *VoIP E911 Order* should address that concern, since it does impose a similar registration requirement on certain voice telephone subscribers, who – like VRS and IP Relay users – access the telephone network using IP connections. We also note that many VRS and IP Relay users currently create profiles to assist providers in handling and expediting their calls.[65] Accordingly, making similar profiles mandatory through registration, as a condition of using VRS and IP Relay, may not be unduly intrusive or burdensome. In view of these considerations, we seek comment on whether the use of a registration system for the use of VRS and IP Relay is appropriate and consistent with Section 225's functional equivalency mandate.[66] We seek comment generally on any privacy considerations that might be raised by requiring VRS and IP Relay users to provide location information as a prerequisite to using these services. We also seek comment on whether the Commission's TRS confidentiality rules are sufficient to address potential concerns related to providing personal information through the Internet.[67] We seek further comment on what measures providers have taken to ensure the privacy and security of relay calls.[68] We also seek comment on whether, assuming some type of location registration requirement is adopted, the Commission should require specific information or place limits on the scope of information that providers should be able to obtain, and on what measures, if any, should be adopted to ensure the confidentiality of that information.

21. VRS equipment, because it requires a video screen or television monitor, tends to remain at the same location, while IP Relay equipment tends to be used in a much more mobile manner. IP Relay may be accessed through any laptop computer or similar device that connects to the Internet, including handheld wireless devices. We therefore seek comment on how we might ensure that IP Relay providers have current location information, *i.e.*, that the Registered Location is the actual location of the user when making a particular call. In the *VoIP E911 Order* we required providers to offer their consumers a method of updating their location information.[69] We seek comment on how we might ensure that providers have updated location information, and the respective obligations of the providers and the consumers in this regard. Should, for example, users be required to affirmatively acknowledge whether they are at their Registered Location each time they initiate a call, and if they are not at their Registered Location, be prompted or required to provide their present location? We note that in the *VoIP E911 Order* we cautioned interconnected VoIP providers "against charging customers to update their

[64] Because each terminal has a unique identifying number, known as a Media Access Control (MAC) address, this could be used to identify or verify a user profile which contains the registered address.

[65] *See, e.g.*, www.hamiltonrelay.com/internet/ip/profile.html (an example of an IP Relay provider's profile page that allows users to create a profile that indicates the user's preferences concerning matters such as speed dialing and greetings).

[66] 47 U.S.C. § 225(a)(3).

[67] *See* 47 C.F.R. § 64.604(a)(2).

[68] *See, e.g., 2004 TRS Report & Order*, 19 FCC Rcd at 12501, para. 51; *IP Relay Declaratory Ruling & FNPRM*, 17 FCC Rcd at 7791, para. 38.

[69] *VoIP E911 Order*, 20 FCC Rcd at 10271, para. 46.

Registered Location, as this would discourage customers from doing so and therefore undermine this solution."[70]

22. The Commission currently requires TRS providers to include "a clear and bold written statement on their website and any VRS promotional materials explaining the shortcomings and potential dangers of using VRS to place an emergency call using 911,"[71] so that those making a 911 call over TRS facilities understand the implications of placing such a call, particularly in the context of the Commission's encouragement to TRS users to access emergency services directly.[72] In the *VoIP E911 Order*, the Commission required interconnected VoIP service providers to "specifically advise every subscriber, both new and existing, prominently and in plain language, [of] the circumstances under which E911 service may not be available."[73] The Commission also required interconnected VoIP providers to obtain "affirmative acknowledgement by every subscriber, both new and existing, of having received and understood this advisory"[74] and to distribute labels "warning subscribers if E911 service may be limited or not available and instructing the subscriber to place them on and/or near the CPE used in conjunction with the interconnected VoIP service."[75] In light of these requirements in the *VoIP E911 Order*, we seek comment on whether, and if so, how the Commission's current requirements for VRS and IP Relay providers should be revised. Should the Commission, for example, require that VRS and IP Relay providers specifically advise new and existing subscribers of the circumstances under which E911 service may not be available through VRS and IP Relay or may be in some way limited by comparison to traditional E911 service? Should the Commission require VRS and IP Relay providers to provide appropriate warning labels for installation on CPE used in connection with VRS and IP Relay services? Should VRS and IP Relay providers be required to obtain and keep a record of affirmative acknowledgement by every subscriber of having received and understood this advisory? Should receipt of compensation from the interstate TRS Fund be conditioned on compliance with such requirements? What, if any, other requirements should be imposed on VRS and IP Relay providers in this regard?

23. As noted above, in the *VoIP E911 Order* the Commission made clear that interconnected VoIP providers must use the Wireline E911 Network in transmitting E911 calls to the appropriate PSAP, and may not use a 10-digit number (so called "administrative numbers"). In support of this conclusion, the Commission cited evidence in the record that use of a 10-digit number for routing E911 calls to a PSAP that is interconnected to a Wireline E911 Network is not in the public interest in the context of interconnected VoIP services.[76] We seek comment on whether the same rule should apply to VRS and IP Relay providers handing emergency calls.

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[70] *Id*

[71] *See VRS Waiver Order*, 17 FCC Rcd 157, at 162, para. 14 (temporarily waiving mandatory minimum standards). *See also 2004 TRS Report & Order*, 19 FCC Rcd at 12521-2, paras. 116-118 (extending waivers and confirming warning requirement).

[72] *See* para. 10, *supra.*

[73] *VoIP E911 Order*, 20 FCC Rcd at 10272, para. 48.

[74] *Id.*

[75] *Id.*

[76] *Id.*, 20 FCC Rcd at 10269-10270, para. 42 & n.142.

24. Finally, we seek comment on whether, following the *VoIP E911 Order,* VRS and IP Relay calls could be structured in such a way that they necessarily include a VoIP call, therefore allowing registration for interconnected VoIP calls to satisfy the registration requirement for users of VRS and IP Relay. In other words, because outbound VRS, IP Relay, and VoIP calls all use the Internet, we seek comment on whether, if VRS and IP Relay consumers were also VoIP subscribers subject to the *VoIP E911 Order,* emergency VRS or IP Relay calls could simultaneously be directed to both the VRS or IP Relay provider and the emergency service tied to the consumer's Registered Location with the VoIP provider. We recognize that, because it is text-based, IP Relay does not necessarily depend on broadband connections and seek comment on how the solutions discussed herein might apply in that context. We also seek comment on any other ways in which the requirements of the *VoIP E911 Order* may be applied to the use of VRS and IP Relay to ensure access to emergency services.

25. *PSAP Database.* The Commission has recognized that TRS providers will use PSAP databases to determine the appropriate PSAP to call in relaying an emergency call.[77] In the *2004 TRS Report & Order,* the Commission continued to require providers to maintain and update their databases, and encouraged them to work with state public agencies to do so.[78] It declined, however, to mandate a single national PSAP database that would be available to all TRS providers, noting that no national database exists for routing 911 calls.[79] We seek comment on whether our existing requirements concerning the use of PSAP databases would be sufficient in the context of VRS and IP Relay providers handling emergency calls, or whether we should modify these requirements. We also seek comment on whether a national database is feasible and appropriate for VRS and IP Relay providers handling emergency calls. If so, we seek comment on how such a database may be implemented and maintained.

26. *Priority Access to Emergency Calls.* During busy periods, it is possible that the CA may not be immediately available to handle an incoming VRS or IP Relay call and, as a result, the caller may be put in a queue to wait for the next available CA.[80] We seek comment on whether and how VRS and IP Relay providers may identify incoming calls as emergency calls so that such calls can promptly be directed to a CA without waiting in a queue. We also seek comment on whether equipment can be modified to permit users to make an emergency call that will be promptly recognized as such by the providers, so that a VRS or IP Relay user has the ability to make a call that is the equivalent of a 911 voice telephone call.

27. *Multiple Providers.* There are presently several VRS and IP Relay providers, and consumers can make VRS and IP Relay calls through any of the providers they choose.[81] We seek

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[77] *TRS Second Improved Report and Order,* 18 FCC Rcd at 12407-12408, para. 42; *see generally 2004 TRS Report & Order*, 19 FCC Rcd at 12559-12560, paras. 216-219.

[78] *2004 TRS Report & Order*, 19 FCC Rcd at 12559-12560, para. 217.

[79] *Id.*, 19 FCC Rcd at 12560, para. 218.

[80] We note that this is less of a consideration for IP Relay because the "85/10" speed of answer rule applies to IP Relay. See 47 C.F.R. § 64.604(b)(2). *See 2005 VRS Order 20* FCC Rcd. 13165, paras. 19-24. We have recently established a phased-in speed-of-answer requirement for VRS. At the close of that phase-in, we will require 80 percent of VRS calls to be answered within 120 seconds. *Id* at 13175, para 19. We recognize, however, that this is likely too long a wait for a caller seeking emergency services. We also note that this is less of a consideration in the context of IP Relay, because our rules require that 85 percent of calls be answered within 10 seconds. 17 FCC Rcd 7779, 7788 at para. 29 (April 22, 2002).

[81] In contrast, traditional TRS consumers must make intrastate TRS calls through the provider(s) selected by the state as part of the certified state TRS program.

comment on whether VRS and IP Relay users should be required to register with each provider that they use, or whether a shared database could be established that could be accessed by all providers. We also seek comment on the advantages or disadvantages of using such a shared database.

28. *Registration and Jurisdictional Separation of Costs.* As a general matter, Section 225 provides that states are responsible for compensating providers for the costs of intrastate TRS, and the Interstate TRS Fund is responsible for compensating providers for the costs of interstate TRS.[82] For traditional TRS calls made via the PSTN, providers can automatically determine if a particular call is interstate or intrastate, and bill either the appropriate state or the Interstate TRS Fund accordingly. For VRS and IP Relay calls, however, because one leg of the call is via the Internet, it is presently not possible for a provider to determine if a particular call is interstate or intrastate. As a result, presently all VRS and IP Relay calls are compensated from the Interstate TRS Fund.

29. In the FNPRM included in the *2004 TRS Report & Order,* the Commission sought comment on possible means for applying jurisdictional separation of costs to VRS and IP Relay calls.[83] We now seek comment on whether a registration requirement for emergency call handling could also be used as a mechanism to allocate TRS costs between the interstate and intrastate jurisdictions for the purpose of payments from the Interstate TRS Fund.[84] We also seek comment on whether, assuming all VRS and IP Relay calls continue to be compensated from the Interstate TRS Fund, an exception should be made for the costs of emergency VRS and IP Relay calls so that they are paid for by the states or the Interstate TRS Fund, depending on the jurisdictional nature of the call. Further, we seek comment on any other alternatives for funding emergency VRS and IP Relay calls.

30. *Timelines.* We seek comment on how much time it may reasonably take for providers to implement the solutions proposed in this *Notice*. We also seek comment on whether there continues to be any reason to have separate deadlines for VRS and IP Relay.[85] Finally, we ask parties to provide any further information that may illuminate the issues raised in this *Notice*.

IV. PROCEDURAL MATTERS

31. *Comments and Reply Comments.* Pursuant to sections 1.415, 1.419, and 1.430 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, 1.430, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All filings should refer to CG Docket No. 03-123. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.[86] For additional information on this proceeding, please contact Leon Jackler in the Consumer & Governmental Affairs Bureau, at (202) 418-0946.

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[82] *See* 47 U.S.C. § 225(d)(3)(B).

[83] *See 2004 TRS Report & Order*, 19 FCC Rcd at 12561-12564, paras. 221-230 (IP Relay), 12567, paras. 241-242 (VRS).

[84] *See id.*, 19 FCC Rcd at 12567, para. 242 (suggesting that a registration requirement might be a means of determining the jurisdictional separation of costs).

[85] As we have noted, the emergency call handling rule has been waived for VRS until January 1, 2006, and for IP Relay until January 1, 2008. *See* paras. 13-14, *supra*.

[86] *See Electronic Filing of Documents in Rulemaking Proceedings*, 13 FCC Rcd 11322, 11326 para 8 (April 6, 1998).

32. Comments filed through the ECFS can be sent as an electronic file via the Internet to http://www.fcc.gov/e-file/ecfs.html. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, postal service mailing address, and the applicable docket number, which in this instance is CG Docket No. 03-123. Parties may also submit an electronic comment by Internet e-mail. To obtain filing instructions for e-mail comments, commenters should send an e-mail to ecfshelp@fcc.gov, and should include the following words in the body of the message: "get form <your e-mail address>." A sample form and instructions will be sent in reply. You also may obtain a copy of the ASCII Electronic Transmittal Form (FORM-ET) at <http://www.fcc.gov/e-file/email.html>. Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail).

33. For hand deliveries, the Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

34. Comments and reply comments must include a short and concise summary of the substantive discussion and questions raised in the *Notice*. We further direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. We strongly encourage that parties track the organization set forth in this *Notice* in order to facilitate our internal review process. Comments and reply comments must otherwise comply with section 1.48 and all other applicable sections of the Commission's rules.[87]

35. To request materials in accessible formats (such as Braille, large print, electronic files, or audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY). This Public Notice can also be downloaded in Word and Portable Document Format at <http://www.fcc.gov/cgb.dro>.

36. *Ex Parte Rules.* This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[88] Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.[89] Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's rules.

37. *Initial Regulatory Flexibility Analysis.* With respect to this *Notice*, an Initial Regulatory Flexibility Analysis (IRFA) is contained in Appendix A. As required by section 603 of the Regulatory

[87] *See* 47 C.F.R. § 1.48.

[88] 47 C.F.R. §§ 1.1200, *et seq.*

[89] *See* 47 C.F.R. § 1.1206(b)(2).

Flexibility Act, the Commission has prepared an IRFA of the expected impact on small entities of the proposals contained in the *Notice*. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Notice* specified in paragraph 31 above. The Commission will send a copy of the *Notice*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.[90]

38. *Initial Paperwork Reduction Act of 1995 Analysis.* This document contains proposed or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due 60 days after date of publication of this Notice in the Federal Register. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

V. ORDERING CLAUSES

39. Accordingly, IT IS ORDERED that, pursuant to sections 1, 4(i) and (o), 225, 255, 303(r), 403, 624(g), and 706 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i) and (o), 225, 255, 303(r), 403, 554(g), and 606, this Notice of Proposed Rulemaking IS ADOPTED.

40. IT IS FURTHER ORDERED that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

[90] *See* 5 U.S.C. § 603(a). In addition, the NPRM and IRFA (or summaries thereof) will be published in the Federal Register.

APPENDIX

INITIAL REGULATORY FLEXIBILITY ANALYSIS

41. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[91] the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities that might result from this Notice of Proposed Rulemaking (NPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.[92] In addition, the NPRM and IRFA (or summaries thereof) will be published in the Federal Register.

A. Need for, and Objectives of, the Proposed Rules

42. Providers of telecommunications relay services (TRS), mandated by Title IV of the Americans with Disabilities Act of 1990, are required to handle calls seeking access to emergency services.[93] This requirement is presently waived, however, for providers of the two Internet-based forms of TRS, Video Relay Service (VRS) and Internet Protocol (IP) Relay.[94] The NPRM seeks comment on whether the Commission should adopt rules requiring VRS and IP Relay providers to adopt a means of ensuring that when the provider receives an emergency calls made via these services the provider can make an outbound call to an appropriate Public Safety Answering Point (PSAP) that can respond to the emergency. More specifically, the NPRM seeks comment on whether the Commission should adopt a registration process whereby VRS and IP Relay providers would be required to establish, in advance, the primary location from which the VRS and IP Relay providers will be making calls, so the provider can identify the appropriate PSAP to contact.

B. Legal Basis

43. The authority for the actions proposed in this NPRM may be found in Sections 1, 4(i) and (j), 201-205, 218 and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201-205, 218 and 225, and Sections 64.601-64.608 of the Commission's regulations, 47 C.F.R. §§ 64.601-64.608.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

44. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein.[95] The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and

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[91] 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, 110 Stat. 857 (1996).

[92] *See* 5 U.S.C. § 603(a).

[93] 47 C.F.R. 64.604(a)(4); *see generally* 47 U.S.C. § 225.

[94] *See* paras 13-14, *supra*.

[95] 5 U.S.C. § 604(a)(3).

"small governmental jurisdiction."[96] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[97] A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[98] A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."[99]

45. As noted above, the TRS access to emergency information rule, one the TRS mandatory minimum standards,[100] is presently waived for VRS and IP Relay providers. The NPRM seeks comment of whether the Commission should adopt a means by which VRS and IP Relay providers can ensure that when they receive emergency calls, they can route them to the appropriate PSAP. As a result, we believe that the entities that may be affected by the proposed rules are only those TRS providers that offer IP Relay and VRS. Neither the Commission nor the SBA has developed a definition of "small entity" specifically directed toward TRS providers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers.[101] Currently, there are eight TRS providers that offer VRS and/or IP Relay, which consist of interexchange carriers, local exchange carriers, state-managed entities, and non-profit organizations. Approximately five or fewer of these entities are small businesses.[102] The FCC notes that these providers include several large interexchange carriers and incumbent local exchange carriers. Some of these large carriers may only provide TRS service in a small area but they nevertheless are not small business entities.[103] The FCC estimates that there is at least one TRS provider that is a small entity that may be affected by our action.

D. Description of Projected Reporting, Recordkeeping and other Compliance Requirements

46. The proposed rules would require VRS and IP Relay service providers to collect certain information and take other actions to comply with our rules requiring such service providers to provide E911 service capabilities to their customers. VRS and IP Relay providers would be required to obtain from each customer, prior to the initiation of service, the physical location at which the service will first be utilized, and must provide customers a way to update this information (*i.e.*, the "Registered

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[96] 5 U.S.C. § 601(6).

[97] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the 5 U.S.C. 601 (3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

[98] 15 U.S.C. § 632.

[99] 5 U.S.C. § 601(4).

[100] *See* 47 C.F.R. § 64.604.

[101] 13 C.F.R. § 121.201, NAICS Code 517110.

[102] *See* National Association for State Relay Administration (NASRA) Statistics. These numbers are estimates because of recent and pending mergers and partnerships in the telecommunications industry.

[103] MCI (WorldCom), for example, provides TRS in approximately only a few states but is not a small business.

Location").[104] The proposed rules would require VRS and IP Relay providers specifically to advise new and existing subscribers of the circumstances under which E911 service may not be available through VRS and IP Relay or may be in some way limited by comparison to traditional E911 service, and to obtain and keep a record of affirmative acknowledgement by every subscriber of having received and understood this advisory.[105]

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

47. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[106]

48. This NPRM invites comment on a number of alternative means by which VRS and IP Relay providers might handle emergency calls. For instance, we seek comment on the effectiveness of alternatives to direct regulation to achieve the Commission's public policy goals of ensuring the availability of 911 and E911 capability. For example, this NPRM asks if a single, national PSAP database would be preferable to multiple provider-maintained databases. The Commission also seeks comment on whether voluntary agreements among public safety trade associations, VRS and IP Relay stakeholders, consumers, and state and local E911 coordinators and administrators could lead to VRS and IP Relay subscribers receiving enhanced 911 functionality, and what the Commission could do to facilitate such agreements. The Commission also asks whether promulgation of best practices or technical guidelines would promote the provision of effective E911 services for VRS subscribers. The Commission also asks how it could provide for technological flexibility so that any final rules allow for the development of new and innovative technologies in the event it concludes that mandatory requirements would be necessary.

49. In addition, the Commission seeks comment on more general issues surrounding the possible imposition of a 911/E911 requirement for VRS and IP Relay services, which could prompt commenters to suggest other alternatives to the rules proposed today. For instance, the Commission seeks comment on what ways VRS and IP Relay providers currently seek to provide emergency services to their customers. The Commission also notes that the development and deployment of VRS and IP Relay is in its early stages, that these services are fast-changing and likely to evolve in ways that it cannot anticipate, and that imposition of regulatory mandates should be undertaken with caution.

50. We also note that by proposing E911 rules for VRS and IP Relay providers, the Commission may save small entities providing these services resources in the long run. For instance, in light of the importance of E911 service to the public, VRS and IP Relay providers likely will be required by the Commission or Congress to provide such service. Any future requirement could involve costly

[104] The term "Registered Location" is defined in the NPRM, *supra*, at para. 15.

[105] *See* NPRM, *supra*, at para. 22.

[106] 5 U.S.C. § 603(c).

and inefficient retrofitting of embedded infrastructure for VRS providers that may already have adopted an E911 solution.

51. Finally, the draft NPRM seeks comment on whether, following the *VoIP E911 Order,* VRS and IP Relay calls could be structured in such a way that they necessarily include a VoIP call, therefore allowing registration for interconnected VoIP calls to satisfy the registration requirement for users of VRS and IP Relay. In other words, because outbound VRS, IP Relay, and VoIP calls all use the Internet, the draft seeks comment on whether, if VRS and IP Relay consumers were also VoIP subscribers subject to the *VoIP E911 Order*, emergency VRS or IP Relay calls could simultaneously be directed to both the VRS or IP Relay provider and the emergency service tied to the consumer's Registered Location with the VoIP provider. This could mitigate any burdens the proposed rules might have on small businesses.

F. Federal rules that may duplicate, overlap, or conflict with the proposed rules

None.